IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Crl.Rev.Pet.No. 1142 of 1999()

CRA.30/1994 of SESSIONS COURT, KALPETTA
CC.616/1989 of JUDL.MAGISTRATE OF FIRST CLASS, SULTHANBATHERY
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REVN. PETITIONER:
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1. AJITH KUMAR, S/O. KARTHIKEYAN KANNIKARA,
   AGE 2089, PURAKKADI AMSOM.

2. SASIDHARAN, S/O. PANKAJAKSHAN,
   KANNIKARA, AGED 32, CHOOTHUPARA,
   KALLAYI VEEDU,

3. SATHYANADHAN, S/O. KARTHIKEYAN,
   KANNIKKARA, PURAKKADI AMSOM,
   CHOOTHUPARA.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDERON CRL. M.P. NO. 5237/1999 IN CRL. R.P. NO. 1142/1999

DISMISSED

20.03.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 1142 OF 1999

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Dated this the 20th day of March 2007

O R D E R

The revision petitioners, three in number, stand convicted for the offences under Sections 324 and 326 r/w section 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 2,000/- each and in default to undergo rigorous imprisonment for six months each with respect to the offence under Section 326 r/w 34 IPC and rigorous imprisonment for one year each and a fine of Rs.1,000/- each and in default to undergo rigorous imprisonment for three months each for the offence under section 324 r/w 34 of IPC.

2. The prosecution case is that on 09.07.1989 at about 4.30 p.m. when PWs 1 to 3 who are husband, wife and son were proceeding to consult a doctor they were attacked by the accused with MO1 chopper and MO2 series of sticks which resulted in a cut injury on the left hand of PW1, resulting in fracture to the

ulna and hurt to PWs 2 and 3 as beaten with MO2 series of sticks. The evidence adduced in the matter consisted of the testimony of PWs 1 to 14, Exts. 1 to 6 and MO1 to 7 series.

3. The evidence in support of the prosecution case consisted of the testimony of PWs 1 to 3 the injured witnesses. PW4, the independent witnesses turned hostile. The courts below have found concurrently that evidence of PWs 1 to 3 corroborated with each other. No material discrepancy or contradiction has been brought out in the version of the above witnesses. No contradiction or omission has been brought out with respect to their previous statement from the evidence of the Investigating Officer. The FIR has been lodged without delay. The medical evidence, consisting of the testimony of the doctor and wound certificate produced, established the fact of sustaining of the injuries by PWs 1 to 3 and the grievous injury of PW1. In view of the above evidence, I find that the prosecution has succeeded to establish beyond reasonable doubt that the accused is guilty of the offences alleged.

4. The counsel for the revision petitioner has only sought for leniency pointing out the fact that the incident had taken

place on 09.07.1989 which is more than 1 ½ decades ago. It is pointed out that the revision petitioners were facing the criminal proceedings so far and are living under the shadow of impending imprisonment. In the circumstances, I find that the sentence is liable to be modified. Hence the sentence for the offence under Section 326 r/w Section 34 IPC is modified to imprisonment till rising of the court and to pay a fine of Rs.5000/- each and in default to undergo simple imprisonment for two months each. The sentence for the offence under Section 324 r/w Section 34 IPC is modified to fine of Rs.5000/- each and in default to undergo simple imprisonment for one month each. The fine amount, if realised, i.e. Rs. 60,000/- will be paid to PW1, the injured.

The Crl. R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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